

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 3:026. Access to Wildlife Management Areas for mobility-impaired individuals.

RELATES TO: KRS 150.025(1), 150.170, 150.175, 150.620

STATUTORY AUTHORITY: KRS 150.025(1), 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to establish hunting seasons and to regulate bag and possession limits for, and the methods of taking and the devices used to take, wildlife. In addition, KRS 150.620 authorizes the department to regulate the use of its Wildlife Management Areas. This administrative regulation simplifies the process for obtaining method exemptions and special use permits for mobility-impaired individuals and promotes nature-related recreational access to department-managed lands.

Section 1. Definitions. (1) "ATV" is defined in KRS 189.010(24).

(2) "Department" is defined in KRS 150.010(8).

(3) "Mobility-impaired individual" means an individual who meets the requirements of Section 2(1) of this administrative regulation.

(4) "Motor vehicle" is defined in KRS 189.010(19)(b).

(5) "Qualified assistant" means an individual who is participating in the activity with the mobility-impaired individual and designated by the mobility-impaired individual.

(6) "WMA" means a Wildlife Management Area owned or operated by the department.

Section 2. Mobility-impaired Access Permit. (1) If a person meets one (1) of the following requirements, he shall qualify for a mobility-impaired access permit application from the department:

(a) Has permanent paralysis of at least one (1) leg;

(b) Has at least one (1) foot amputated;

(c) Is permanently confined to a wheelchair or must use crutches, or a walker as a means of support to pursue daily activities;

(d) Is restricted by a lung disease to such an extent that the person's forced respiratory expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest;

(e) Requires portable oxygen;

(f) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class 3 or Class 4 according to standards set by the American Heart Association; or

(g) Has a diagnosed disease which creates a severe mobility impairment.

(2) The mobility-impaired access permit shall allow the following activities by a mobility-impaired individual:

(a) Discharge of a firearm or other legal hunting device from a motor vehicle when the vehicle is motionless and has its engine turned off. The motor vehicle shall be used as a place to wait or watch for game and shall not be used to chase, pursue, or drive game.

(b) May operate electric wheelchairs, ATV's, and other passenger vehicles on or off gated or ungated or open-gated roads otherwise closed to vehicular traffic but only on designated tracts of designated WMAs.

1. The roads may be accessed March 1 through the third Friday in August.
2. Tracts designated as mobility-impaired access areas shall be posted with signs.
3. Vehicular access shall not be permitted on fields, openings, roads, paths, or trails planted with annual grains or agricultural crops.
4. It shall be permissible to access areas which are not roads the third Saturday of August until the end of February.
5. ATV users shall adhere to manufacturer recommendations including wearing a helmet, wearing safety glasses, and restricting riding to one (1) person, while using ATVs on WMAs.

Section 3. (1) A mobility-impaired individual may designate one (1) qualified assistant. The qualified assistant may:

- (a) Track and dispatch a wounded animal;
 - (b) Retrieve an animal; or
 - (c) Render other assistance in accordance with KRS Chapter 150 and 301 KAR Chapters 2 and 3.
- (2) A qualified assistant shall not:
- (a) Operate his or her own ATV; or
 - (b) Hunt or shoot from an ATV.
- (3) Applicants for a mobility-impaired access permit shall:
- (a) Fill out the required information on the Mobility-Impaired Access Permit Application; and
 - (b) Obtain the attestation and signature from a licensed physician describing the mobility impairment.
- (4) In order to participate in activities authorized by Section 2(2) of this administrative regulation, a mobility-impaired individual shall have a completed mobility-impaired access application on his person at all times while participating in such activities.

Section 4. All method exemption cards and letters issued prior to the effective date of this administrative regulation are void.

Section 5. Incorporation by Reference. (1) "Mobility-impaired Access Permit", revised August 2001, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Fish and Wildlife Resources, #1 Sportsman's Lane~~[Game Farm Road]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

RICH STORM, Commissioner

MIKE E. BERRY, Secretary

APPROVED BY AGENCY: July 14, 2021

FILED WITH LRC: August 5, 2021 at 9:27 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 21, 2021 at 2:00 p.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation

through October 31, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Beth Frazee, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Beth Frazee

(1) Provide a brief summary of:

(a) What the administrative regulation does: This administrative regulation simplifies the process for obtaining method exemptions and special use permits for mobility-impaired individuals and promotes nature-related recreational access to department-managed lands.

(b) The necessity of the administrative regulation: This regulation is necessary to all access to mobility-impaired individuals and promotes nature-related recreational access to department-managed lands.

(c) How does this administrative regulation conform to the authorizing statute: KRS 150.025(1) authorizes the department to establish hunting seasons and to regulate bag and possession limits for, and the methods of taking and the devices used to take, wildlife. In addition, KRS 150.620 authorizes the department to regulate the use of its Wildlife Management Areas.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By simplifying the process for obtaining method exemptions and special use permits for mobility-impaired individuals and promotes nature-related recreational access to department-managed lands.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: This amendment cleans up and simplifies language in the existing regulation.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary as part of the agencies continued efforts to update and simplify our regulations,

(c) How does the amendment conform to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: Individuals utilizing wildlife management areas.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action needed to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment does not alter any costs for the entities in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Access to state managed lands for mobility impaired individuals.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no additional cost to the agency to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost to the agency on a continuing basis..

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation: The source of funding is the KDFWR Game and Fish Fund. .

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Additional fees or funding for direct implementation of this regulation are not necessary as the regulation already exists.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees. This administrative regulation does not establish any fees nor does it indirectly increase any fees.

(9) TIERING: Is tiering applied? No.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Contact Person: Beth Frazee

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

No state or local government units will be impacted by this change.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1), 150.620

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated for the state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated for state and local governments.

(c) How much will it cost to administer this program for the first year? There will be no additional costs for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: